

### **REMARKS**

The present amendment is in response to the Office Action mailed September 25, 2008, in which Claims 1 through 12 were rejected.

Claims 1 and 9 are amended herein. No claim is cancelled. New Claims 13 – 17 are added for consideration at this time. Accordingly, Claims 1 – 17 are pending.

All changes made are for clarification and are based on the application as originally filed. It is respectfully submitted that no new matter is added.

Favorable reconsideration is respectfully requested.

### **SPECIFICATION AMENDMENTS**

The specification has been amended to include priority data as claimed by Applicant.

### **CLAIM AMENDMENTS**

Independent *Claim 1* has been amended as follows:

- It is now specified in the preamble that the method consists of the specified steps and that the steps are to be followed in sequence.
- The chip formation step has been clarified by specifying that a mixture is prepared, by specifying that the mixture is itself formed, by making a separate step for cutting the disc, and by specifying that the formed chips are cooked.

Independent *Claim 9* has been amended as follows:

- It is now specified in the preamble that the method consists of the specified steps and that the steps are to be followed in sequence.

- The step of providing the meat component has been amended for clarification.
- The step of providing the cheese component has been amended for clarification.
- The step of placing the other of the pair of chips on the cheese component has been amended for clarification.

Applicant respectfully submits that no new matter has been introduced by these changes.

### **NEW CLAIMS**

New independent *Claim 13* and new dependent *Claims 14 – 17* are introduced. Independent *Claim 13* is based generally on amended independent *Claim 9*. It does not have quantities but it does include the steps of placing cheese on both sides of the mat component. Support for these steps can be found in the application as originally filed at page 4, lines 8 – 10. Dependent *Claims 14 – 17* are based upon others of the originally filed claims.

Accordingly, Applicant respectfully submits that no new matter has been added through the introduction of new *Claims 13 - 17*.

### **CLAIM OF PRIORITY**

The Examiner specified that the specification needed to be amended to make reference to the prior application(s) to which Applicant claims priority. Applicant amended the Specification accordingly as set forth above.

In this instance the information concerning the benefit of the claim to the

prior application(s) was recognized by the Office as shown by inclusion in the first filing receipt. Accordingly, neither a petition nor surcharge is required.

Reconsideration is respectfully requested.

### **CLAIM REJECTIONS – 35 USC SECTION 112**

The Examiner rejected Claims 1 through 12 under 35 USC Section 112, second paragraph, as being indefinite. Particularly, the Examiner stated that Claim 1 was vague and indefinite as Step 1 recited preparing the chips but did not specify the step of actually forming the chip or cooking the chip. In addition, the Examiner stated that in Claim 9 Steps 2 and 3 lacked antecedent basis for the recitation “the amount.”

Applicant amended each of these claims as set forth above and it is believed that the rejections under 35 USC Section 112 are now overcome. Reconsideration and withdrawal of these rejections are respectfully requested.

### **CLAIM REJECTIONS – 35 USC SECTION 103(a)**

The Examiner rejected Claims 1 through 12 under 35 USC Section 103(a) as being unpatentable over Parker (USPN 6,083,554) in view of Trout *et al.* (6,743,458). Of the rejected claims, only Claims 1 and 9 are independent.

Applicant respectfully traverses this rejection.

The Examiner acknowledges that Parker does not disclose applying a jerked meat and cheese to a first chip and placing a second ship on top of the meat and cheese. Instead, Parker teaches a chip in which the meat product is integrated with the flour product to form a chip. There is no teaching in Parker of anything other than a chip composed of different ingredients.

Trout discloses only lipid-based filings which may include meat pieces.

Trout fails to teach or suggest layering of cheese and meat. Trout instead teaches away from layering by specifically calling for a single composition which contains the lipid-based filling as well as “other ingredients.” (Col. 7, lines 3-4)

As set forth in the application as filed, the method of preparing the article of food of the present invention “is intended at preserving the meat flavor once part of the chip.” In the both the Parker food article and the Trout food article the meat is commingled with other ingredients and the independent meat flavor is lost. Conversely, by layering the article of food as taught and claimed herein the separate meat flavor is maintained.

As to the addition of cheese, there is no effort made in the suggested taco, burrito, or enchilada to maintain independent layers of meat vs. cheese, thus assuring that the meat flavor is not lost.

Furthermore, there is no teaching or suggestion in the prior art for the layering of cheese on both sides of the meat component as claimed in new independent *Claim 13*.

Reconsideration and withdrawal of the rejections under 35 USC Section 103(a) are respectfully requested.

### **CONCLUSION**

In light of the above amendments and remarks, Applicant respectfully submits that all pending claims as currently presented are in condition for allowance. Applicant respectfully requests that a Notice of Allowance be issued in this case. *In the event that the Examiner feels that one or more of the claims still are not in condition for allowance, the undersigned attorney for Applicant respectfully requests a telephone call from the Examiner at the*

*telephone number listed below so that any outstanding issues may be resolved.*

Respectfully submitted,



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